

**REMARKS**

This paper is submitted in response to the second office action, which was non-final. Reconsideration and favorable action are respectfully requested.

All pending claims stand rejected on obviousness grounds in view of various combinations of the nine (9) references that are identified on pages 2-4 of the most recent office action. Seven of these references relate to or describe commercial software products by a company named Genesys; the Examiner has sometimes referred to this art collectively as “Genesys” in one or more of the individual claim rejections. The other two cited references are articles to Jooss and Jacobson.

At the outset, and with due respect, the undersigned objects to the Examiner’s conflating two or more of the seven (7) separate Genesys references into something called “Genesys” that is then applied to a given claim or claim term. In particular, because the references stand alone, they are not properly aggregated unless there is some suggestion or motivation to combine them. The Examiner has not referred to any such statements or suggestions in the documents themselves, and it is not clear from the references whether their combination makes sense from a technical or legal standpoint. This is the Office’s burden in the first instance.

As it relates to the present invention, the Genesys reference V1 is probably the most relevant to the pending claims. At best, however, this reference teaches one to display a “graphical representation of agent and agent group statistics” that includes such components as “total calls by type handled by agent or agent group” and “total time agent spent on phone.” This and the other cited Genesys-related references, however, fail to disclose or suggest the following previously-presented claim language (emphasis supplied):

“wherein the performance statistics are displayable for the given agent and the one or more other agents in the agent’s group by one or more views: on a cumulative basis across all skills and contact types, according to a given skill that the given agent possesses, and according to a given contact type handled by the given agent.”

For this reason alone, the pending claim rejections are traversed.

Nevertheless, in an effort to advance this prosecution to a close, the undersigned has reviewed the pending claims and hereby submits amended independent claims for the Examiner's consideration. In this regard, each independent claim 66, 68, 81 and 86 (which have similar formats) has been amended to include the following additional claim limitation (with slight wording changes where appropriate):

wherein the step of displaying includes communicating a comparison between the performance of the given agent and the performance of the agent group, the comparison being communicated as at least one of a difference, a percent difference, and no difference, wherein the type of difference communicated is selectable by a supervisor entity or, if the supervisor entity has enabled a given permission, by an agent.

The Examiner will note that, in part, this limitation derives from the subject matter of cancelled dependent claim 12.

The cited prior art of record does not disclose any display in which agent and agent group performance data is displayed in the one or more identified views, let alone with the further requirement of "communicating a comparison between the" displayed performance data, the comparison being one of a difference, a percent difference, and no difference. As the Examiner will also appreciate, each identified claim has also been further amended to require that the difference communicated be selectable by a supervisor or, if permitted by the supervisor, an agent. These specific features describe patentable subject matter.

In particular, the reference relied upon by the Examiner to show the comparative display of agent versus agent group performance statistics (see, e.g., the prior rejection of claim 12) is the Jacobson publication. With respect, this reference, however, does not teach what the Examiner says it does. In particular, the Examiner has cited to this particular paragraph in applying the reference:

"In the call center environment, we recommend charting agent performance (using the call center's performance standards or key performance indicators) and identifying those individuals who fall outside-above or below-the average range. By understanding the extent of performance variance within the contact center, management stands a greater chance of pinpointing factors that can lead to greater consistency."

The Examiner's reliance on the above paragraph, however, does not take into consideration the author's context. From the paragraphs that lead up to this key paragraph and the one paragraph that follows, it is quite clear that the author here actually is describing managing the contact center employments over a long term, not in providing a real-time display of agent statistics, as in a preferred embodiment of the present invention. This is clear from the following statements, which place the cited paragraph in its proper context:

"Once quantifiable standards are identified and established, they must be communicated to personnel and measured."

"Management must take time to measure results against the standards and provide constructive feedback to the call center team."

"Once the measurement system is in place, the center's objectives, standards, and deliverables must be re-evaluated regularly. They should be evaluated at least every six months to be certain that the right factors are being measured and that standards are still valid."

...

"Once agents who fall outside the control limits are identified [by management], resources can be dedicated to their development." (Jacobson, pages 2-3, emphasis supplied).

Thus, viewed in the proper context, Mr. Jacobson is simply describing nothing more than an abstract human resources process: determining an employee standard, measuring the employee's performance against that standard, and then having management address any unacceptable performance variance.

There is nothing in the Jacobson publication that discloses or suggests the claimed subject matter of *displaying* the performance data *by one or more views*: (e.g., *on a cumulative basis across all skills and contact types, according to a given skill that the given agent possesses, or the like*), or (*during* such display) to communicate, for example, intra-group performance comparisons. The claim goes even further, however, in also requiring the selection of which comparison to display to be determined by one of a supervisor, or an agent (if the supervisor provides permission). This type of display

provides the agent with extremely useful and easy-to-interpret information concerning the agent's current performance with respect to his or her peer group, but also how such performance actually compares to others similarly situated. The Jacobson reference, such as it is, is concerned with a process by which management (as opposed to the agent) can determine whether a given employee's performance is acceptable, as viewed against some unexplained metric and measured over a long (e.g. 6 month) time period. There is no disclosure or suggestion in this reference to afford agents the opportunity to view (e.g., intra-day) performance comparison data. Further, the Genesys publication (e.g., V1) that does describe displaying agent comparison data does not teach the comparison limitations now positively recited.

Accordingly, claims 66, 68, 81 and 86 are now deemed to describe patentable subject matter, as does each dependent claim that derives (directly or indirectly) from any such independent claim.

Claim 42 is the only other independent claim. Because this claim already included the limitations of "presenting" percentage differences, the claim has only been amended to include the supervisor and agent selection limitation:

*wherein the first state and the second state are selected by a supervisor entity or, if the supervisor entity has enabled a given permission, by an agent.*

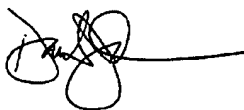
This claim, however, should also be considered patentable for the reasons previously advanced with respect to the deficiencies in the Jacobson reference.

At best, the cited art simply describes allowing call center agents to monitor their individual performance in real time as well as compare it to that of their group, and the additional desirability of enabling call center management to evaluate a call center agent against some (un-disclosed) long-term performance metric. Each claim presented herein requires much more, and these additional requirements are neither disclosed nor suggested by the prior art. A proper §103 rejection can only be established if the subject matter as a whole would have obvious to one of ordinary skill in the art at the time of the alleged invention, given due consideration to the prior art references but without a hindsight reconstruction based on any pending claim.

Respectfully, the Examiner has not met this burden; thus, a notice of allowance is requested.

An appropriate extension of time is submitted herewith to extend the period for response up to and including January 26, 2006.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'D' and 'J' followed by a horizontal line.

By: \_\_\_\_\_

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**ATTORNEY FOR APPLICANTS**